REMARKS

Claims 1-6 are pending in the application. Claim 1 stands rejected under 35 USC §103(a) as being unpatentable over Pannekeet, WO 99/14121, in view of Kurth et al., US 6,658,818. Claims 2-6 stand rejected under 35 USC §103(a) as being unpatentable over Pannekeet, WO 99/14121, in view of Kurth et al., US 6,658,818, and further in view of Antonacci et al., US 5,823,683.

Applicant's claim 1 provides a method for manufacturing bag packages from two separate provided materials: a base of netting and an overlay of at least two foil strips. According to claim 1, the two foil strips are each provided with a printed pattern or illustration repeating longitudinally. Most importantly, "the foil strips are supplied in a coupled manner from one foil stock" (claim 1).

This final element of claim 1 distinguishes it from the prior art relied upon by the Examiner. A prior art bag preparation machine such as that shown in FIG. 1 of the Pannekeet reference features two separate foil rolls 11, 15. The separate rolls 11, 15 provide separate front and back foil sheets 12, 16 as overlay which, along with a tube of base netting 8, are formed into a bag. As is clearly shown in FIG. 1, the separate front and back foil sheets 12, 16 are never supplied in a coupled manner from one foil stock. Thus, slight variations in the supplied length of each front and back foil panel applied to a series of bags will, over time, result in a lengthwise mismatch between the illustration applied to the front of a bag with the illustration applied to the back of a bag. This phenomenon is discussed in detail in the background section of the present application. The Pannekeet reference addresses this phenomenon by precisely placing each front foil using an optically read index mark and sizing the illustration or text block on the back panel small enough to allow each bag to have at least one complete back image along with other partial back images regardless of where along the length of the back foil it is attached to the bag. In summary, if the front and back foils 12, 16 of the Pannekeet reference each contained illustrations having a length equal to the finished bag, the rear illustration would become misaligned from the front illustration after the construction of a series of bags.

The foregoing misalignment problem for bags fabricated from at least two separate materials is the problem addressed and solved by the present invention. By applying the two foil strips from one coupled foil stock, the image on the back strip remains longitudinally matched with the image on the front strip up to bonding with the net base material. The image on the front strip may be precisely placed with an optically read index mark and the unnecessary expense and complexity of a back side indexing system is avoided.

The Examiner relies upon the Kurth reference to teach the critical "one coupled stock" aspect of Applicant's invention. According to the Examiner, Kurth discloses a method in which an endless stock of web base material is divided into a plurality of individual webs of equal width for the manufacturing of a tubular bag (column 1, lines 18-20). The text of Kurth cited by the Examiner is taken from the background of the invention and describes a prior art process which is deemed to be suitable for a bag made from a single layer of material. One of the embodiments described by Kurth does concern a multilayered web of packing material, however, the multiple layers contemplated by Kurth are laminates which are "joined by adhesive during manufacture" (column 1, line 42). Since the multiple layers of the Kurth bag material are bonded by adhesive prior to the step of slitting the web and forming it into a bag, the misalignment problem present in the Pannekeet reference resulting from an unattached base netting being joined with outside foil strips as an overlay is not considered or relevant to the Kurth process. In addition, the Kurth reference does not suggest a method of solving the front and back image alignment problem at all.

For the following reasons, the Examiner's rejection of claim 1 under 35 USC §103(a) is inappropriate:

1. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. MPEP 2143.01. The Pannekeet reference identifies the image mismatch problem, but addresses this problem with a wholly different solution. The Pannekeet reference teaches the use of smaller images on the back side foil so that the image mismatch inevitable under the prior art method can be ignored. Thus, Pannekeet teaches away from the single coupled foil source of the present invention. Furthermore, Pannekeet provides no suggestion or motivation to provide both the front and back foils from a coupled source.

Kurth, as discussed above, merely teaches the possibility of splitting a bag base material into separate strips which are then formed into a tubular bag. Kurth does not teach or suggest that the strips formed under the favored process contain printed material or images. Furthermore, Kurth does not teach or suggest the desirability of maintaining lengthwise alignment between front and back strips being formed into a bag.

It is important to note that the material being split into separate strips and formed into a bag according to the Kurth reference is the base bag substrate itself. Nothing in Kurth teaches or suggests the application of exterior foil strips as an overlay, each provided with a printed pattern repeating in a longitudinal direction, to the base material of the finished bag. Thus, Kurth does not involve a bag fabricated from at least two materials and is of little relevance to Applicant's process as detailed in claim 1. Contrary to the Examiner's assertions, there is no motivation contained in the Kurth or Pannekeet references to combine the references and achieve Applicant's invention as claimed in claim 1.

2. Assuming for argument's sake that Pannekeet and Kurth can be combined to achieve the invention of claim 1, the mere fact that the references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed Cir. 1990), MPEP 2143.01. As discussed above, the Pannekeet reference addresses the foil image mismatch problem by the wholly unrelated technology of modifying the length of the image on the back foil. Kurth is not concerned with the matching of images on front and rear overlay foils applied to a base bag material at all. Neither reference remotely suggests the desirability of providing at least two foil strips, each provided with a repeating longitudinal printed pattern in a coupled manner from one foil stock as required by claim 1. In summary, there is no suggestion within the Pannekeet and Kurth references that a possible combination of the references to result in Applicant's claim 1 would be desirable.

The Examiner further relies upon Antonacci et al., US 5,823,683, as the basis for a rejection under 35 USC §103(a) of claims 2-6.

Applicant's claim 2 limits the foil stock of claim 1 to a single strip of foil with at least two repeating, printed patterns. The at least two patterns repeat down the length of the strip in respective columns. Concurrent repeats are provided next to one another in each column. When the single strip is divided into substrips, each substrip bears its own repeating, printed pattern. This particular configuration is easily visible in Applicant's FIG. 5 where the repeating R (rear) and repeating F (front) images are shown to repeat side by side along the length of the single foil strip, and where concurrent repeats are provided next to one another.

Contrary to the Examiner's assertion, the print band of Antonacci, as shown in FIGs. 1 and 9, has an entirely different configuration. It appears from FIG. 1 that the printed band of Antonacci features two distinct images of fruit. In addition, these two distinct images alternate down the length of the printed strip. Thus, Antonacci does not teach or suggest a printed pattern repeating longitudinally. Furthermore, Antonacci does not teach or suggest providing concurrent repeats next to one another as is shown in FIG. 5. The Antonacci band provides no suggestion or teaching dealing with the mismatch of front and back images as addressed in detail above. Thus, the Examiner's 35 USC §103(a) rejection of claims 2-6 is inappropriate.

For the foregoing reasons, this application is believed to be in a condition for allowance. If a conversation would help to expedite prosecution of this case, the Examiner is encouraged to contact the undersigned by telephone.

This constitutes a request for any needed extension of time. The fee of $225.00 for a two month extension of time is enclosed. The undersigned hereby authorizes the charge of any deficiency of fees submitted herewith, or the credit of any overpayment, to deposit account number 19-5117.

Respectfully Submitted,

James L. Brown, #48,576
Swanson & Bratschun, LLC
1745 Shea Center Drive, Suite 330
Highlands Ranch, Colorado 80129
303.268.0066
303.268.0065 (FAX)

cc: Vereenigde

S:\CLIENTFOLDERS\VEREENIGDE\VE17\VE17OARESP01.DOC